UTAH STATE OFFICE OF EDUCATION

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MEMORANDUM

TO: **District Superintendents**

FROM: Carol B. Lear, Director

School Law and Legislation

DATE: November 28, 2005

SUBJECT: Holiday Activities in the Schools

As the holiday season approaches we are again receiving inquiries concerning the degree to which schools may participate in holiday activities. The major question continues to be high school choir participation in worship services during the Christmas season, but we have also had questions concerning the permissibility of Halloween and Thanksgiving observances. Since I assumed you were receiving similar questions, I discussed the matter with Supt. Bean and with John McAllister of the Education Section in the Attorney General's Office. They agreed that it might be helpful for you to have the following information, which reflects the current state of the law in this area:

1. May schools participate in holiday observances?

Answer: Yes, as long as the participation does not reach the level of conducting a religious observance or worship service or otherwise endorsing any underlying religious beliefs. While it is permissible, for example, to address the Christmas holiday in all of its aspects in the schools, it is not permissible to conduct a religious celebration of the birth of Jesus Christ as the Savior of the world. Teachers may discuss the underlying religious beliefs for holidays, but should do so respectfully (not reverently or disrespectfully), and in a neutral manner. They may not present those beliefs as being true or false, credible or foolish, or otherwise endorse a particular belief or belief system. A faithful Christian has no more right to use his or her position as an educator to endorse Christianity than an atheist has to use his or her position to endorse atheism. Educators should also recognize that there are holidays other than traditional American holidays, and consider whether the educational experience in our schools could be enhanced by including the study and observance of some of those holidays. Our students will be competing on an international stage; it would probably be helpful if they could better understand some of the other players.

2. May students sing religious music as part of a holiday observance?

Answer: Yes, but music should be chosen for its educational value, not for its religious content. With large choirs, more complex music will of necessity be predominantly religious in nature. If one were to attempt to exclude religious music from school performances, for example, then one would pretty well eliminate all classical choral music. If religious music is used, however, teachers should not endorse the message.

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If appropriate, a Christmas program should include secular seasonal music, but it is not necessary to include a rousing chorus of "Rudolph the Red Nose Reindeer" to balance out a presentation of the "Messiah." Regardless of whether secular music is included or not, a choir performance should not become a worship service.

3. May student choirs participate in worship services?

Answer: Yes, if student participation is voluntary, all arrangements have been made through the students, and school staff are not involved in any way. In addition, willingness to participate in a worship service may not be a factor in grading or eligibility for membership in a school-sponsored group.

4. May school staff participate with student groups in worship services?

Answer: No. School staff may not assist in scheduling, encouraging participation, or the presentation itself. They may not direct, accompany, or participate in any other way. They may attend a student performance in a worship service on the same basis as any other member of the public, but that is all.

5. May a public concert be held in a church if the performance is not part of a religious service?

Answer: Yes, but students who do not wish to participate for reasons of religious belief or conscience must be permitted to "opt out" without penalty. Staff may arrange such concerts and participate fully. The law does not limit public school choirs to singing in shopping malls and school auditoriums; if an opportunity should arise for a school choir to present a public concert in a setting such as the Cathedral of the Madeleine or the Assembly Hall on Temple Square in Salt Lake, or in one of the other historic tabernacles or church buildings in the state, I would hope that students would be given that opportunity.

It is not the *building* that makes a performance by a school choir under the direction of school staff permissible or impermissible, it is the *nature of the meeting*. If the meeting is a religious or worship service it does not matter if the meeting is held in a church or a parking lot, public schools and school personnel may not be involved in any way. If the meeting is secular, then there is no limitation on participation.

We have additional information on the above and related topics, such as the new video and pamphlet on religion in the schools, and a memorandum by Michelle Beus discussing case law relating to school music groups performing during non-school hours, which we would be happy to provide to you upon request. Please let us know if we can assist you in answering any other questions.